

Understanding Adult Guardianship and Guardianship Alternatives in Maine

What is a Guardian?

A guardian is a person appointed by the court to make decisions on behalf of an adult who cannot make decisions for him or herself.

Individuals who may need support:

- a frail elder
- individual in the late stages of Alzheimer's
- individual with mental illness, developmental disability, or chronic illness who is unable to make or communicate responsible decisions

Guardianship removes an adult's basic civil rights

Deciding to petition for guardianship is a life-changing decision, both for you and for the person needing help because guardianship can seriously limit a person's individual rights and freedoms.

What you need to know about Full Guardianship:

- Full guardianship can take away an individual's basic rights to make choices about his or her life.
- A person may not be able to choose where to live, what to eat or wear, or who to have relationships with.
- A person may not be allowed to access money, spend money, or save money.
- Guardianship is not a quick fix. The process of appointing a guardian may require significant time and energy.
- Having a guardian does not prevent an individual from making poor decisions.

Full Guardianship, the most restrictive form of guardianship, should be considered only after other options have been explored and ruled out.

Alternatives may preserve an individual's rights

Alternatives to full guardianship allow individuals to hold on to some or all of their independence and basic rights.

An alternative is any legal tool, social service, natural support, community resource, or government program that does not require FULL guardianship.

ALTERNATIVES TO FULL GUARDIANSHIP

Least Restrictive Alternative:

Individual retains full independence and full decision-making power. No court involvement.

Community Resources/Unpaid Supports:

- *Increased support from family and friends
- *Statement of consent to keep parents involved
- *Community agencies: e.g. AAA, Meals on Wheels
- *DHHS programs and caseworkers

Money Management Strategies w/o court order:

- *Representative payee
- *Bill payment services
- *Joint checking accounts

Community Resources/Unpaid Supports

- *Mediation to help resolve a dispute

Middle Ground:

Individual retains some, but not all, control over decisions in their life. Limited court involvement.

Common Legal Arrangements:

- *Health care directives
- *Special needs trust
- *Power of Attorney
- *Surrogate decision-maker

Limited or Temporary Guardianship:

- *Limited or temporary medical guardianship
- *Limited or temporary residential guardianship
- ~Limited guardianship can be tailored to address an individual's needs based on what is requested in court.

Most Restrictive Alternative:

A guardian has full decision-making control over all areas of an individual's life. Requires a court order.

FULL GUARDIANSHIP

Gale's Story

"I'm going to be 75 next month. I can't move around my home like I used to, but I refuse to go to a nursing home. My daughter wanted guardianship of me because I have trouble cooking meals and taking care of my apartment. I told her she needed to find some better solutions."

Gale's Alternatives: Community Services, Advance Planning

"I had no idea there was so much help in my own community. Now, I get Meals on Wheels delivered by a friendly man and a volunteer from an Area Agency on Aging stops by once a week to help me with my bills."

I also started planning ahead for my future. I created a Will with my attorney and named my daughter as my Power of Attorney. This means that in the event something happens to me my daughter will be able to make decisions on my behalf."

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For more information:

www.maine.gov/guardianship